

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
MATTHEW DENNIS SPIKINGS,) CASE NO. 10-24712 JPK
) Chapter 7
Debtor.)

ORDER DENYING MOTION TO APPROVE AGREED
ORDER FOR RELIEF FROM AUTOMATIC STAY
AND ABANDONMENT OF REAL ESTATE ("MOTION")

The Motion was filed on January 12, 2011; it requests approval of an agreed order entered into between Flagstar Bank, FSB and the debtor, which provides for relief from the automatic stay for Flagstar Bank with respect to real estate located at 3710 Allison Street, Portage, Indiana, and for abandonment of that property from the Chapter 7 bankruptcy estate. The Chapter 7 Trustee was not a party to the order.

Except under extraordinarily limited circumstances, a debtor has no standing whatsoever to either approve or request a motion for relief from stay/abandonment filed in a Chapter 7 case: all of the rights of the debtor with respect to the subject real estate are held by the Chapter 7 Trustee, until the property has been abandoned by the Chapter 7 Trustee during the course of administration of the case, or at the closing of the case. The proposed Agreed Order is therefore a nullity and the Motion requests the approval of an agreement which has no basis for approval.

IT IS ORDERED that the Motion is denied.

Dated at Hammond, Indiana on February 14, 2011.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:
Debtor, Attorney for Debtor, Trustee, US Trustee
Attorney for Creditor